



Zoning Change Proposals For the Meeting of January 8, 2009

Town of Weare Zoning Ordinance change proposals for the 2009 warrant. The **final** public hearing will take place on January 8, 2009.

Proposed additions are in ***bold italics***; proposed deletions are ~~stricken through~~.

Are you in favor of the adoption of [Amendment No. 1](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to add a new Article 35 entitled "Small Wind Energy Systems"?

New Article to read:

ARTICLE 35

35.1 **Purpose:** The small wind energy systems ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate distributed generation/small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

35.2 **Definitions:**
Meteorological Tower (met tower): Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purposes are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

Net metering: The difference between the electricity supplied over the electric distribution system and the electricity generated by the small wind energy system that is fed back into the electric distribution system over a billing period.

Power grid: The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

Shadow flicker: The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.

Small wind energy system: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

System height: The vertical distance from ground level to the tip of the wind turbine blade when it is at its highest point.

Tower: The monopole, guyed monopole or lattice structure that supports a wind turbine.

Tower height: The height above grade of the fixed portion of the tower, excluding the wind turbine.

Wind turbine: The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

35.3 Procedure for Review:

35.3.1 Building Permit: Small wind energy systems and met towers are ~~an~~ **permitted** accessory use. ~~permitted in all zoning districts where structures of any sort are allowed.~~ No small wind energy system **or met tower** shall be erected, constructed, or installed without first receiving a building permit from the Building Inspector. A building permit shall be required for any physical modification to an existing small wind energy system that materially alters the size and/or type of the small wind energy system or its location. Like-kind replacements shall not require a building permit to be modified. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.

35.3.2 It is important that small energy systems have the ability to perform properly. Therefore, systems will not be approved and sized based on the average wind speeds at that site location. It shall be a requirement of this process to first obtain a building permit for a met tower to collect wind speeds in miles per hour (mph) for a minimum 12-month period. The final size of the wind turbine: i) will be determined on the basis of the average wind speeds collected based on manufacturers specifications; and ii) cannot be sized larger than the primary needs for onsite consumption based on manufacturers specifications and applicants monthly electricity usage. While tower heights cannot exceed 150 feet, tower heights will only be as tall as necessary to perform properly based on met tower test heights and collected data.

35.3.3 Application: Applications submitted to the Building Inspector shall contain a site plan with the following information:

- i. Property lines and physical dimensions of the applicant's property
- ii. Location, dimensions, and types of existing major structures on the property
- iii. Location of the proposed small wind energy system, foundations, guy anchors and associated equipment
- iv. Tower foundation blueprints or drawings
- v. Tower blueprint or drawings
- vi. Setback requirements as outlined in this ordinance
- vii. The right-of-way of any public road that is contiguous with the property
- viii. Any overhead utility lines
- ix. Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity
- x. Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider
- xi. Sound level analysis prepared by the wind turbine manufacturer or qualified engineer
- xii. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to State, Federal and International building or electrical codes or laws
- xiii. Evidence of compliance or non-applicability with Federal Aviation Administration requirements
- xiv. List of abutters to the applicant's property

35.3.4 Abutter and Regional Notification: In accordance with RSA 674:66, the building inspector shall notify all abutters by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comment to the building inspector prior

to the issuance of the building permit. The building inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the building inspector shall follow the procedures set forth in RSA 36:57, IV.

35.5

Standards:

35.5.1

The Building Inspector shall evaluate the application for compliance to the following standards;

- a. Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the wind turbine base to property line, public roads, or nearest point on the foundation of an occupied building.

Minimum Setback Requirements

Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Property	Property lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.1	1.5

- b. Tower: ~~The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system.~~ In no situation shall the tower height exceed 150 feet.
- c. Sound level: The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- d. Shadow Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
- e. Signs: All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- f. Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.

- g. Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.
- h. Visual Impacts: It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access the wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
 - i. The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impact will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, turbine design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground.
 - ii. The color of the small wind energy system shall either be ~~the stock color from the manufacturer or painted with~~ a non-reflective, unobtrusive color that blends in with the surrounding environment. ~~Approved colors include but are not limited to white, off-white or gray.~~
 - iii. A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.
- i. Approved Wind Turbines: The manufacturer and model of the wind turbine to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the State of New Hampshire, if available.
- j. Utility Connection: If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A: 9.
- k. Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above ground. All ground-mounted

electrical and control equipment shall be labeled and secured to prevent unauthorized access.

- I. Clearing: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.
- m. **Small wind energy systems shall be allowed in the rural agricultural, commercial, residential, residential manufactured housing and industrial districts only. They shall not be allowed in any wetland district or in or within 300' of any historic overlay village. They may be allowed in the rural conservation overlay district and in the aquifer protection zone if they are allowed in the underlying district.**

35.6 Abandonment:

- 35.6.1 At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the Building Inspector by certified US mail of the proposed date of abandonment or discontinuation or operations.
- 35.6.2 Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Building Inspector. "Physically remove" shall include, but not be limited to:
 - a. Removal of the wind turbine and tower and related above-grade structures.
 - b. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-conditions.
- 35.6.3 In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the Building Inspector may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the Building Inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the Building Inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

35.6.4 If the owner fails to respond to the Notice of Abandonment of if, after review by the Building Inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy shall remove the wind turbine and tower at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

~~35.7 **Violation:** It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system.~~

~~35.8 **Penalties:** Any person who fails to comply with the provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676.~~

Are you in favor of the adoption of [Amendment No. 2](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend Article 32.4.1 to eliminate cell towers in the historic districts?

By changing the first sentence to read:

"Wireless telecommunications facilities shall be permitted in all zoning districts, except that they shall be prohibited (a) within 150 feet of town or state roads, ~~and~~ (b) within 300 feet of a scenic road or siting in a manner which is readily visible from a scenic road or within a scenic vista ~~and~~ (c) **within 300 feet of and within an historic overlay district.**"

The purpose of this amendment is to preserve the rural character of the town by keeping non-rural features like cell towers out of historic areas.

Are you in favor of the adoption of [Amendment No. 3](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to make two (2) amendments Article 27.3.11 to i) allow the open space to be protected by "covenants" and to be able to be held by "land owners" and such open space "may" be deeded to the Town in fee and ii) to amend the second paragraph to further protect the farmlands?

ARTICLE 27 CLUSTER HOUSING

27.3.11 At least fifty percent (50%) of total tract area exclusive of public right-of-ways (and buffer strips within lots) shall be set aside as open space covenanted to be maintained as permanent "conservation land" in private,

public, cooperative or non-profit ownership. Open space within a cluster development shall be protected by permanent ~~covenants or~~ conservation easements held by **a qualified conservation organization; the land owners, the Town, a qualified conservation organization** or an agency of state government, or, **at the option of the applicant, Planning Board permanent covenants held by the land owners or** such open space ~~shall~~**may** be deeded to the Town of Weare in fee ownership subject to the restriction that the Town retain the land as open space for the purposes described in this Article. Such land shall be restricted to allowed open space uses. Agricultural uses allowed in the zoning district containing the cluster development shall be considered allowed open space uses. Such land shall have suitable public access, **unless the Planning Board determines such access is not in the public interest.**

The design and layout of all cluster developments should protect as open space to the greatest extent possible those portions of the original tract having the highest **agricultural**, conservation, **recreational, historical, and scenic** values. If the tract contains:

- (1) any farmland that is being used for agricultural purposes (excluding forestry) or
- (2) any prime farmland soil or
- (3) farmland soils of local importance or
- (4) farmland soils of statewide importance,

each as defined in New Hampshire NRCS (Natural Resources Conservation Services) County Soil Survey and presented through NRCS NH soils and NH Granit Data Mapper, or as verified by a site-specific soil survey, such farmland and/or soils shall be included in the open space unless the Planning Board determines that that one or more of the factors listed below is of greater importance; provided, however, that if the area of such farmland and/or soils in the aggregate exceeds the open space area, priority for inclusion in open space shall be given to such farmland and/or soils in the order listed above. **Any such determination shall be by separate vote and shall include the reasons on which it is based.**

Other factors for determining these **conservation** values shall include, but not be limited to:

- Wetlands
- Riparian corridors
- View sheds
- Abutting tracts of open space, conservation land, or undeveloped land
- Recreational ~~values~~ **opportunities**
- Steep slopes
- Historical sites and features
- High productivity forest soils

Important wildlife habitat and wildlife travel corridors
Unique or unusual ecological communities or natural features
Visual impact on the rural character of the Town”

Are you in favor of the adoption of [Amendment No. 4](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to make three amendments to Article 4 – Definitions by i) amending the definition of the word “lot” by eliminating the last sentence; ii) amending the definition of dwelling unit by adding the word kitchen; and iii) to add a definition of “conservation land” as there is currently not one?

ARTICLE 4

LOT: Shall mean a parcel of land at least sufficient in size to meet the minimum requirements of this ordinance for use, coverage, and area and to provide required yard, setbacks, and open space. ~~Newly created lots shall be four sided and rectangular in shape unless extenuating circumstances, such as existing lot lines or similar conditions require it to be different.~~

DWELLING UNIT: Any room, or rooms connected together forming a habitable unit for one family with its own bathing and toilet facilities and its own living, **kitchen**, eating and sleeping areas wholly within such rooms, or rooms connected together.

CONSERVATION LAND: Land that is preserved to protect natural features including, but not limited to, wildlife habitats, wetlands, ecologically important or sensitive areas, farmland soils, plant or animal species, topography or historical sites.

Are you in favor of the adoption of [Amendment No. 5](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend Article 9.1 to add a subsequent offence enforcement fee?

ARTICLE 9

9.1 **PENALTY & ENFORCEMENT:** The Board of Selectmen or its designee shall enforce the provisions of this ordinance and shall recover reasonable attorney's fees as well as all other costs where they prevail. Notification of Violation shall be by Certified Mail - Return Receipt Requested. Non-conforming uses must be brought into conformity within a thirty (30) day period after notification. A penalty of two hundred seventy five dollars (\$275.00) per day will be assessed to non-conformity after the thirty (30) day period. Any person who ~~shall~~ violates any provision of this ordinance shall pay a civil fine of not more than \$275.00 **for the first offense and \$550.00 for subsequent offenses** for each day that such violation is found by a Court to continue after the conviction date or after the date on which the violator receives written notice from the Town that he is in violation of this ordinance, whichever date is earlier.

Are you in favor of the adoption of [Amendment No. 6](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend Article 28 to allow temporary disturbance if there is a restoration plan and add an exception for any disturbance associated with an approved dredge and fill issued by the NHDES?

ARTICLE 28

- 28.9 BUFFERS: A buffer of native vegetation with no ground disturbance allowed except for planting shall be maintained within 25 feet of all jurisdictional wetlands. **Disturbance shall may be allowed temporarily if approved by the Planning Board and it-is accompanied by an approved suitable restoration plan approved by the Planning Board.** In forested areas no more than 50 percent of the basal area shall be removed in any 10 year period.
- 28.9.1 EXCEPTIONS: Buffer distances are not required within the right of way for any proposed Class V or higher road or any related Class V road construction and/or maintenance activities, **or for any disturbance associated with an approved dredge and fill permit issued by the NHDES.** This section does not apply to any forest management or agricultural activity.

Are you in favor of the adoption of [Amendment No. 7](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to add a new Article 33 entitled "Growth Management and Innovative Land Use Controls"?

New Article to read:

ARTICLE 33

- 33.0 Growth Management and Innovative Land Use Control
- 33.1 Authority: This section is enacted pursuant to RSA 674:21 and 674:22
- 33.2 Purposes: The purposes of this section of the Zoning Ordinance are as follows:
- 33.2.1 Promote the development of an economically sound and environmentally responsible community which considers and balances local and regional development needs while preserving its rural character.
- 33.2.2 Guide efforts by the Town to monitor, evaluate and establish a rate of residential growth in Weare that is consistent with the Town's capacity for planned, orderly, and sensible expansion of its services to accommodate such growth.
- 33.2.3 Provide a temporary mechanism when municipal services are strained or

overloaded to reduce the rate of residential growth to allow the Town time to correct any deficiencies that have developed.

33.2.4 Protect the health, safety, convenience, and general welfare of the Town's residents.

33.2.5 Coordinate residential growth with the Weare Master Plan and Capital Improvements Plan.

33.3 Findings: The Town hereby finds that:

33.3.1 Weare's developable land resources are still sufficient to support extensive growth. The 2005 Master Plan indicates there were 21,389 acres of available, developable land in Weare representing 55.6% of the Town's total land area.

33.3.2 Housing demand has been and is projected to be large. The number of dwelling units in Weare increased 94.4% between 1980 and 1990, or 9.4% annually, and grew another 17.0% from 1990 to 2000, or 1.7% annually. Studies made for the 2005 Master Plan and by the State project another 24.9% increase from 2000 to 2010, or 2.5% annually.

33.3.3 Weare's population increased at an average annual rate of 7.0% over a twenty (20) year period from 1980-2000. Total population grew 91.6% between 1980 and 1990, and another 25.6% from 1990 to 2000. Projections of total population growth from 2000 to 2020 range from a low of 31.7% (Office of State Planning) to a high of 52.1% (2005 Master Plan). On an average annual basis, the range is from 1.6% per year to 2.6% per year. The rate of growth is predicted to accelerate based on a study of the Secondary Impacts of the I-93 Widening project prepared by Parsons, Brinckerhoff, Quade & Douglas, Inc. from the New Hampshire Department of Transportation.

33.3.4 When fully built out, Weare will grow from its current 2,828 dwelling units with a population of 7,776 (2000 Census) to some 10,720 to 14,817 dwelling units and a population of from 31,838 to 44,007 (2005 Master Plan).

33.3.5 The Town is straining to meet current service and facility demands. A new highway garage, additional recreation fields, larger fire and police facilities, new and larger library and larger Town offices are needed just to meet the demand for current services. Projected population and housing growth will require still more and larger facilities. The 2005 Master Plan projects a 1.7% annual increase in traffic volume for all roads except Route 149 on which traffic will increase at an annual rate of 2.3%. These increases are certain to demand road improvements.

- 33.3.6 During the 1990-2006 period, Weare's housing supply grew by 2.5% annually; its neighboring Town's grew by 2.2% and the county by 1.3%, or on average of 1.75% for the region. In other words, during the period, Weare's housing supply grew 13.6% more than its neighboring Towns and by 92.3% more than the county. The burden imposed by this growth can be met by the Town if the future Weare's housing supply grew no faster than its region and included more one and two bedroom dwelling units.
- 33.4 Determining Maximum Sustainable Growth: Not later than March 1 of each year, the Planning Board shall determine Weare's maximum sustainable rate of residential development for the twelve (12) months beginning March 1 of that year. Based on the foregoing findings, the maximum annual sustainable rate of growth shall not exceed 1.75% increase in Weare's residential dwelling units over the preceding calendar year; provided, however, that such rate shall not exceed more than two of the following three measures:
- 33.4.1 The average rate of residential dwelling unit authorizations (building permits) in Weare over the six (6) preceding calendar years;
- 33.4.2 A percentage increase in dwelling units over the preceding calendar year is equal to the rate of increase in housing units for that preceding year summed across the seven (7) municipalities which abut Weare (Dunbarton, Goffstown, New Boston, Francestown, Deering, Henniker and Hopkinton);
- 33.4.3 The maximum rate of dwelling unit authorizations whose projected demands can be adequately serviced and provided with facilities at a prudent level of fiscal strain, based upon one or more of the following:
- 33.4.3.1 The rate of residential development at which the number of actual Weare pupils projected by the Weare School Board to be enrolled in Weare schools, including John Stark Regional High School, would not in any year exceed 90% of the stated capacity of Weare schools in that year, based upon facilities development as contained in the Capital Improvement Plan most recently approved by the Planning Board, and/or
- 33.4.3.2 The rate of residential development determined by the Planning Board based upon careful studies and consultation with the agencies involved to be the highest which would not exceed the Town's capacity to service growth and public facilities other than schools, as planned in the six-year Capital Improvement Plan most recently approved by the Planning Board, together with facilities anticipated to be provided by developers and others, and/or

- 33.4.3.3 The combined municipal and school appropriations for capital expenditures, including debt service and capital outlay, for the calendar year will on average exceed 15% of the total municipal and school department appropriations combined over the period covered in the current Capital Improvements Plan.
- 33.4.4 For the purpose of implementing this section in 2009, the number of residential dwelling units in Weare as of January 1, 2009, shall be 3,391 plus the net change in residential dwelling units for the years 2007 and 2008, as determined by the Planning Board. Annually thereafter this number shall be changed by the Planning Board based on the net change in residential dwelling units according to Weare building permit data.
- 33.5 Planning Board Modification and Notification: It shall be the responsibility of the Planning Board to monitor growth in the Town and region, assembling as soon as practicable following the end of the calendar year such information as is necessary for making the determination of whether sustainable growth conditions exist, and if they do, determining the annual rate of development which, at maximum, could be sustained.
- 33.5.1 Prior to making a final determination of the maximum sustainable annual rate of residential development, the Planning Board shall hold a public hearing with ten (10) days notice to seek input from the public.
- 33.5.2 The Planning Board shall notify the Board of Selectmen, the Code Enforcement Officer, the Town Clerk, and the general public of its determination of the maximum sustainable rate of residential growth by, among other things, posting a notice to that effect in the Town Offices. That determination shall apply for a period of one year from the date of notice to the Board of Selectmen or, if sooner, until notification of a subsequent determination by the Planning Board.
- 33.5.3 The Planning Board shall also monitor on an annual basis the progress of the Town and school district in providing services and facilities on the schedules called for in the Capital Improvement Plan. The Planning Board shall report its findings in the Town's annual report.
- 33.6 Limiting the Issuance of Building Permits: The Planning Board's notice of unsustainable growth conditions shall include notice that limitations on the issuance of residential building permits will be required during the period of such conditions, and notice of what the sustainable annual rate of development has been determined to be, and notice of how many building permits for new residential dwelling units will be authorized during said period.
- 33.7 Procedures for Permit Limitation

- 33.7.1 The number of building permits for residential dwelling units that may be authorized shall not exceed the smaller of (a) the number of the units allowed to be authorized that calendar year under Section 33.4 but not yet authorized in the current calendar year, or (b) the number of residential dwelling units comprising a 1.75% increase in Weare dwelling units at the beginning of the calendar year minus the number of dwelling units authorized in the eleven months preceding this determination.
- 33.7.1.1 Except as otherwise provided in this Section 33.7, no building permit may be issued without a permit scoring sheet application (henceforth “application”) issued by the Planning Board. For this purpose, each proposed dwelling unit in a mobile home, single-family dwelling, two-family dwelling or multi-family dwelling, shall require a separate application sheet.
- 33.7.1.2 From March 1 through March 21, the Planning Board shall, on a form prepared, by the Board, review and score each application for allocation of building permits for the period; provided, however, that for 2009 the Planning Board may determine the applicable application dates.
- 33.7.1.3 Applications will be scored according to the following priority system:
- 33.7.1.3.1 First priority shall be given to dwelling units which are exempt from the provisions of Section 33.4 under RSA 674:39 [four-year exemption] or RSA 676:12 [120-day “no action” period].
- 33.7.1.3.2 Second priority shall be given to (a) dwelling units in proposed two-lot subdivisions, provided that no more than one per subdivision may be allowed, and (b) accessory attached apartments pursuant to Article 19.1.10; provided that in both cases combined, no more than 10% of the number of available dwelling unit authorizations may be allocated on this basis.
- 33.7.1.3.3 Priority for the remaining dwelling unit authorizations shall be based upon the number of points earned from the point system described in Section 33.7.2.
- 33.7.1.3.4 In the event of a tie at the lowest priority or score for which authorizations will be made, the remaining number of unit authorizations shall be divided among all the projects having earned that priority or score. Division shall be in proportion to the number of units each applicant has applied for or, to the extent proportionate permit allocation is impossible, unfeasible or unfair, as determined by the Planning Board, by lottery.
- 33.7.2 For purposed of determining priority in the system of permit allocation,

development shall be assigned points or point debits according to the following:

- 33.7.2.1 For residential housing in Residential and Village zones: one (1) point
- 33.7.2.2 For development documented to increase traffic at build-out by no more than 10% on an existing street: one (1) point
- 33.7.2.3 For elderly housing (age 55 and older) where the owner of record shall enter an agreement, to be filed in the Hillsborough County Registry of Deeds, certifying that the project will be utilized and restricted to 100% elderly occupants: one (1) point
- 33.7.2.4 For development in which at least 25% of the dwelling units proposed will constitute workforce housing, as defined in RSA 674:58, under administrative guidelines to be adopted and from time to time amended by the Planning Board: one (1) point
- 33.7.2.5 For development in which at least 50% of the dwelling units proposed will have one or two rooms in addition to a kitchen, a living room and toileting facilities: one (1) point
- 33.7.2.6 For development within an area of the Town determined by the Planning Board to have a localized facility capacity shortfall: a two (2) point debit if further growth would seriously inconvenience or disadvantage others already in the neighborhood, such as through school overcrowding; or a one (1) point debit if further growth would constitute a demonstrated threat to health (such as incapacity of waste management facilities) or safety (such as a severe road hazard), provided in such cases that actions by the Town have been taken or a plan has been established to address the capacity shortfall; and
- 33.7.2.7 For each year the dwelling unit has been denied a building permit allocation certificate: one (1) point
- 33.7.3 If by April 1, the number of residential building permits authorized by Section 33.7.1 have not been issued for the year, a second allocation process using the procedure set forth in Section 33.7.1 and 33.7.2 shall take place. The Planning Board shall score applications submitted from May 1, through May 21. All applications shall be completed prior to June 1. If necessary a third allocation process shall be held with applications received from August 1 through August 21 and certificates issued by September 1.
- 33.7.4 The owners of the lots scoring enough points to be awarded a building

permit for a given period may apply for building permits from the Building Department from April 1 through December 31. Any application scoring enough points to be awarded a building permit that is not applied for by December 31 shall lapse.

- 33.7.5 Building permits which are not used within one year of issuance shall lapse and may not be renewed.
- 33.7.6 An application earning enough points may be used for a building permit on any lot within the subdivision for which it was awarded but may not be used for lots outside that subdivision.
- 33.7.7 Building permits for non-residential construction, or for expansion, alteration, renovation or replacement of existing dwelling units, are not limited to Section 33.
- 33.7.8 Nothing in Section 33 shall be construed to authorize or require issuance of a building permit that is not eligible for issuance under any other provision of law.
- 33.8 Expiration Date: This ordinance shall expire at the conclusion of Town meeting in 2014 unless re-adopted prior to that time.

Are you in favor of the adoption of [Amendment No. 8](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend the flood plain ordinance as necessary to comply with requirements of the National Flood Insurance Program?

The following are the details of amendments:

1. Revise Article 31.3.25 to delete the original definition and only keep the reference to area of special flood hazard. So the definition would read as follows:
"Special Flood Hazard Area" – ~~means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHB or FIRM as Zone A or AE. (See "Area of Special Flood Hazard")~~.
2. Replace references to the "Wetlands Board" with the "Wetlands Bureau" in Article 31.9.1, so that article would now read:
In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands ~~Board~~ **Bureau** of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by NH RSA 482-A:31. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands ~~Board~~ **Bureau**.

3. Revise Article 31.10.2 to reference Zones A and AE instead of Zones A and E to now read:
The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in Zones A and **AE** that:

The NHOEP has recently completed a compliance review of Weare's floodplain regulations. As a participating community in the National Flood Insurance Program, the above minor changes need to be made and adopted by the community in order to remain compliant in the program.

Are you in favor of the adoption of [Amendment No. 9](#), as proposed by the Planning Board for the Town Zoning Ordinance as follows: to amend article 19.1.10 to add the word "**dwelling**" before "accessory attached apartment" where applicable; and to amend article 19.1.10.1 to regulate who may occupy the apartment?

- A. Amend article 19.1.10 to read: "One **dwelling** accessory attached apartment shall be permitted ~~to~~ **in a** single family dwelling residence in the residential zone and the rural agricultural zone by special exception from the Zoning Board of Adjustment and with these stipulations.
- B. Amend article 19.1.10.1 to read: "A **dwelling** accessory attached apartment shall be clearly incidental to the primary use of the property for **a** single **family** dwelling, and such accessory living space/apartment shall not exceed six hundred fifty **(650) square feet and shall be occupied only by individuals who are related by blood or marriage to the property owner.**

Are you in favor of the adoption of [Amendment No. 10](#), as received by petition: to amend the Town of Weare Zoning Map by modifying the zoning of Tax Map 202, Lot 043.1, said parcel being located on Concord Stage Road, to change from Commercial (C) to Residential (R)? (By Petition)